

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JEREMY T. GREENE,

Petitioner,

ORDER

v.

08-cv-0623-slc

WILLIAM POLLARD, Warden,
Green Bay Correctional Institution,

Respondent.

On December 30, 2009, I adopted the recommendation of the United States Magistrate Judge and denied petitioner Jeremy Greene's application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Dkt. #34. I also determined that petitioner was not entitled to a certificate of appealability. On February 4, 2010, I denied petitioner's motion to reconsider both rulings. Dkt. #38. Petitioner now has filed a notice of appeal and once again requests a certificate of appealability. Dkt. ##39-40. He also requests leave to proceed in forma pauperis on appeal and has supported that request with a six-month trust account statement from the institution and an affidavit of indigency. Dkt. ##41-42.

For the reasons stated in the December 30 and February 4 orders, petitioner is not entitled to a certificate of appealability. A prisoner can proceed in forma pauperis on appeal

only if the court finds that his appeal is taken in good faith, that is, that reasonable people could suppose the appeal has some merit. Walker v. O'Brien, 216 F.3d 626, 631-32 (7th Cir. 2000). I cannot make this finding.

Petitioner failed to preserve his right to raise all but two of his constitutional claims in federal court and lacks any colorable excuse for his failure to do so. Neither the state court of appeals nor the state supreme court found any basis for a finding of ineffectiveness on the part of trial counsel for not arguing a ground for a lesser included offense of felony murder or on the part of appellate counsel for not raising on appeal his claims relating to an alleged Batson violation, prosecutorial misconduct, denial of severance and ineffectiveness of trial counsel. Under these circumstances, no reasonable person would suppose there is any merit to his pursuing this matter further.

ORDER

IT IS ORDERED that

1. Petitioner Jeremy Greene's request for a certificate of appealability, dkt. #39, is DENIED.

2. Petitioner's request to proceed in forma pauperis on appeal, dkt. #41, is DENIED because I certify that his appeal is not taken in good faith.

3. If petitioner wishes to appeal this decision, he must follow the procedure set out in Fed. R. App. P. 24(a)(5).

Entered this 23rd day of February, 2010.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge